

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TONY M. SMITH,

Petitioner,

vs.

GREGORY COX, *et al.*,

Respondents.

2:11-cv-01697-PMP-GWF

ORDER

On December 12, 2011, the court issued an order directing that petitioner Tony M. Smith show cause that his *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, is not subject to dismissal on timeliness grounds (ECF #4). Petitioner filed his response (ECF #7), and respondents have agreed that the petition is not subject to dismissal as untimely (ECF #8).

Accordingly, respondents shall now have forty-five (45) days to answer or otherwise respond to this petition. Petitioner is advised that a petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

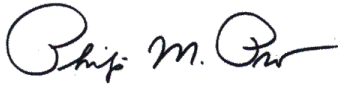
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2 **IT IS THEREFORE ORDERED** that respondents shall have **forty-five (45)** days from
3 the date of entry of this order within which to answer, or otherwise respond to, the petition. In their
4 answer or other response, respondents shall address any claims presented by petitioner in his petition as
5 well as any claims presented by petitioner in any Statement of Additional Claims. Respondents shall
6 raise all potential affirmative defenses in the initial responsive pleading, including lack of exhaustion
7 and procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
8 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
9 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
10 **five (45) days** from the date of service of the answer to file a reply.

11 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
12 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
13 consideration by the court. Petitioner shall include with the original paper submitted for filing a
14 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
15 General. The court may disregard any paper that does not include a certificate of service. After
16 respondents appear in this action, petitioner shall make such service upon the particular deputy attorney
17 general assigned to the case.

18 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents
19 herein shall be filed with a separate index of exhibits identifying the exhibits by number or letter. The
20 CM/ECF attachments that are filed further shall be identified by the number or numbers (or letter or
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1 letters) of the exhibits in the attachment. The hard copy of any additional state court record exhibits
2 shall be forwarded – for this case – to the staff attorneys in Reno.

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6 Dated, this _ 10th day of February, 2012.

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9 UNITED STATES DISTRICT JUDGE